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April 12, 2021

Hon. Robert W. Lehrburger, USMJ  
Daniel Patrick Moynihan United States Courthouse  
500 Pearl St.  
New York, NY 10007

Re: Giordano v Saul 19-cv- 3038 (RWL)

Honorable Sir:

I am plaintiff's attorney in the above matter, a Social Security disability matter that was remanded some time ago. Administrative Counsel has just made me aware that Ms. Giordano received a fully favorable decision dated March 10, 2021. There has been no Notice of Award issued yet, but based upon the number of months of retroactive benefits to which plaintiff is entitled and the trial amount found in the administrative record counsel and I agree that there should be at least \$123,000 in retroactive benefits and \$30,750 withheld as a possible attorney fee. There are also likely to be auxiliary benefits for her child for some of the period.

I have nearly spent about 24 hours of time on this matter and was awarded a fee of \$4650 under EAJA. Thus I will be requesting a fee under 42 USC 406(b), with the amount dependent upon the actual amounts withheld and administrative counsel's fee request.

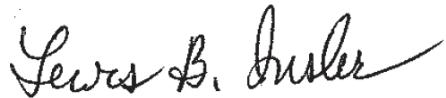
I am writing at this time to ask that the court equitably toll the 14 day period to file for attorney fees under 42 USC 406(b) until such time as the I have received the Notice of Award from Administrative Counsel to determine the amount withheld for attorney fees. This is necessary based upon the recent Second Circuit decision in Sinkler v Berryhill, 932 F 3d 83 (2d Cir 2019) which requires that the petition under 406(b) be filed within 14 days of the date the attorney receives the Notice of Award but that "district Courts are empowered to enlarge that filing period when circumstances warrant." Sinkler at 393.

The Defendant will only send the Notice of Award to administrative counsel and the plaintiff and thus I am dependent on counsel to provide me with a copy of the Notice and to confirm the amount of the administrative

fee being requested under 406(a). While we have discussed this and he is aware of the limitations under Sinkler, I have no control over when I will receive the Notice of Award. However I will file my petition as expeditiously as possible upon receipt of the Notice from counsel.

I thank the court for its anticipated cooperation in this matter and look forward to your determination concerning this motion.

Respectfully submitted,



Lewis B. Insler (li5441)

SO ORDERED:

4/12/2021



HON. ROBERT W. LEHRBURGER  
UNITED STATES MAGISTRATE JUDGE